

REMARKS

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-14, 17-28, 30-38 and 42-50 are presently pending. Claims amended herein are 1, 4, 12, 17-19, 21-22, 31-34 and 42. Claims withdrawn or cancelled herein are 15, 16, 29, 39-41 and 51-59. No new claims have been added.

Statement of Substance of Interview

[0004] The Examiner graciously talked with me—the undersigned representative for the Applicant—on November 28, 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0005] During the interview, I discussed how the claims differed from the cited art, namely Tomsen. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0006] The Examiner was receptive to the proposals, and I understood the Examiner to indicate that the proposed clarifying claim amendments appeared to distinguish over the cited art of record. However, the Examiner indicated that he would need to review the cited art more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

[0007] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0008] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0009] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments

[0010] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 4, 12, 17-19, 21-22, 31-34 and 42 herein.

Formal Matters

Claims

[0011] The Examiner objects to claims 4, 21, 29, 31, 33, 34 and 52-59. Herein, Applicant either amends or cancels these claims, as shown above, to correct the informalities noted by the Examiner.

Substantive Matters

Claim Rejections under §§ 102 and 103

[0012] Claims 1-59 are rejected under 35 U.S.C. § 102 and § 103. In light of the amendments presented herein and the decisions reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0013] The Examiner's rejections are based upon the following references alone or in combination:

- **Tomsen:** *Tomsen, et al.*, US Patent Application Publication No. 2002/0147984 (filed Jan. 16, 2001);
- **Corey:** *Corey, et al.*, US Patent No. 5,703,655 (issued Dec. 30, 1997));
- **Taylor:** *Taylor, Jr. et al.*, US Patent No. 6,710,812 (issued March 23, 2004);
- **Kay:** *Kay, et al.*, US Patent No. 7,110,714 (issued Sept. 19, 2006)

Overview of the Application

[0014] The Application describes a technology for broadcasting interactive content without using triggers embedded in the broadcast content. When a viewer sees an item of interest while viewing a program, the viewer can initiate a request for information (RFI) about that item with a single button actuation. When the RFI is entered, a client device, such as a set-top box, detects the RFI

and transmits RFI data to a server, including the channel viewed, a time stamp and a system-defined amount of closed captioning data. The RFI data is cross-referenced with program time code information, programming guide information, program information and/or advertiser information to determine the context of the RFI, i.e. what the user saw that made the user enter the RFI. Information about the item is then sent to the viewer as a system message, an e-mail message, a post, or by way of any other delivery mode.

Cited References

[0015] The Examiner cites Tomsen as its primary references in its anticipation and obviousness-based rejections. The Examiner cites Corey, Taylor and Kay as its secondary reference in its obviousness-based rejections.

Tomsen

[0016] Tomsen describes a technology for an interactive television system that initiates unprompted, context-sensitive requests for supplemental content related to a television broadcast or discrete segments thereof. The related supplemental content is received by the interactive television system and pre-cached in a storage device associated therewith. In response to a user command, the stored supplemental content is retrieved and displayed by the interactive television system.

Corey

[0017] Corey describes a technology for retrieving segments of stored video programs using closed caption text data. The closed caption text data is extracted from video programming signals received by the system. Text records based on the extracted closed caption text data are generated. Each text record is derived from the closed caption data for a single continuous video segment to which the text record serves as an index or key in retrieving this video segment.

Taylor

[0018] Taylor describes a technology for a news search resultant database containing a plurality of decoded closed caption common news story texts from geographically diverse television stations, which texts have format consistency regardless of the origin of the respective texts. The database is readily readable.

Kay

[0019] Kay describes a technology for an interactive television commerce system for obtaining product information and for purchasing products through a two-way interactive broadcast distribution system, such as a cable or satellite television system.

Anticipation Rejections

[0020] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹ Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.²

Based upon Tomsen

[0021] The Examiner rejects claims 1-3, 5-17, 19-32, 35-45, 48-54 and 57-59 under 35 U.S.C. § 102(e) as being anticipated by Tomsen. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1, 12, 31 and 42

[0022] The Examiner indicates (Action, p. 3-4) the following with regard to this claim:

Regarding claim 1, Tomsen teaches a method comprising:
detecting a request for information (RFI) initiated by a user while
accessing a content program (Para. 17, lines 1-9);

¹ "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

² See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

transmitting RFI data to a server on a broadcast network (Para. 17, lines 1-2); and

wherein the RFI data includes:

a time at which the RFI was initiated; a channel accessed at the time the RFI was initiated (Para. 16, lines 1-9); and

closed caption data associated with the content program that occurred prior to and including the time at which the RFI was initiated (Para. 16, lines 1-9).

[0023] Applicant submits that Tomsen does not anticipate this claim because it does not show or disclose the following elements as recited in this claim (with emphasis added):

- “***cross-referencing, at the server,*** a time at which the RFI was initiated with content item time code data to determine whether a program or an advertisement was scheduled at the time the RFI was initiated, wherein the time code information includes intra-program information relating to when commercials are scheduled within the program;”
- “***in response to no such time code data being available, using the closed caption data to derive search terms;***”
- “***searching, at the server, a reference database*** using the search terms;”

[0024] Furthermore, claims 1, 12, 31 and 42 have been amended and also recite at least one feature not disclosed by Tomsen as specified above. While these claims differ from each other, each claim (as originally written or with amendment herein) possesses at least one comment feature that distinguishes each of them from the cited references. Therefore, at this time, the discussion below applies these claims in a similar manner.

[0025] In short, Tomsen discloses that supplemental content related to a television broadcast can be provided in response to an unprompted information request initiated by a client. The information request can include for example: an indication of a channel being displayed, a time index, an indication of a specific television program being viewed and one or more keywords taken from close-captioning text associated with a television program. (Fig 1 and 6, Para [0015-0016], [0080-0084]) The supplemental content may include many information types such as news feeds, advertisements, images, and streaming video. (Para [0070])

[0026] However, Tomsen does not disclose a specific order of using information provided in the information request in order to "determine whether the content program is a program or an advertisement" as recited in claim 1. More specifically, Tomsen does not disclose that that the first step taken in responding to the information request is "***cross-referencing, at the server,*** a time at which the RFI was initiated with content item time code data to determine whether a program or an advertisement was scheduled at the time

the RFI was initiated," and "***in response to no such time code data being available, using the closed caption data to derive search terms;***" as recited in claim 1.

[0027] Consequently, Tomsen does not disclose all of the claimed elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejection of these claims.

Dependent Claims 2-11, 13-14, 17-21, 32-38 and 43-50

[0028] These claims ultimately depend upon independent claims 1, 12, 31 and 42. As discussed above, claims 1, 12, 31 and 42 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 22

[0029] The Examiner indicates (Action, p. 10) the following with regard to this claim:

Regarding claim 22, Tomsen teaches a client device, comprising:

- a processor (Fig. 3, el. 312);
- memory (Fig. 3, el. 306, 310);
- at least one channel tuner (Para. 51, lines 1-6);
- input means for accepting user input (Fig. 2, el. 212);
- a closed caption buffer configured to store a predefined amount of latest available closed caption data (Fig. 3, el. 306, 310);
- a request for information application configured to receive and identify a request for information input from a user and transmit request for information data to a server (Para. 72, lines 1-10); and
- wherein the request for information data includes a channel identifier that identifies a channel tuned to by the channel tuner at the time the request for information was received, a time stamp that identifies a time that the request for information was received, and closed caption data contained in the closed caption buffer (Para. 16, lines 1-9).

[0030] Applicant submits that Tomsen does not anticipate this claim because it does not show or disclose the following elements as recited in this claim (with emphasis added):

- "the client information further comprises information necessary to sufficiently identify a subscriber associated with the client device so that information may ***be sent to the subscriber by multiple different delivery***

modes, wherein the client information includes a client device identifier, an e-mail address, and **a mailing address.**”

[0031] Tomsen discloses that the information request includes an identifier of the user’s Set Top Box and the content source provides the supplemental content (i.e. search results) to the client using the identifier. (Fig 6, Para [0076]) Moving on, Tomsen states that the search results can be displayed on the television simultaneously with, or in place of, the television program being viewed. (Para [0096])

[0032] However, Tomsen does not disclose that the information request that includes an identifier of the user’s Set Top Box also includes client information “necessary to sufficiently identify a subscriber associated with the client device so that information may ***be sent to the subscriber by multiple different delivery modes***, wherein the client information includes a client device identifier, an e-mail address, and **a mailing address**” as recited in claim 22. The only delivery mode that Tomsen teaches is providing the search results via the Set Top Box and displaying on the television screen. There is no disclosure relating to client information that includes “an e-mail address and a mailing address.”

[0033] Consequently, Tomsen does not disclose all of the claimed elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 23-28 and 30

[0034] These claims ultimately depend upon independent claim 22. As discussed above, claim 22 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Obviousness Rejections

Based upon Tomsen and Kay

[0035] The Examiner rejects claims 47 and 56 under 35 U.S.C. § 103(a) as being unpatentable over Tomsen in view of Kay. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

[0036] Claim 47 ultimately depend upon independent claim 42. As discussed above, claim 42 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, claim 47 recites a feature not disclosed in the cited references.

Dependent Claim 47

[0037] The Examiner indicates (Action, p. 24) the following with regard to this claim:

5. Claims 47 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsen in view of Kay (US 7,110,714).

Regarding claim 47, Tomsen teaches all elements of claim 42.

Tomsen does not clearly teach the performing an action further comprises sending information via post to the user.

Kay teaches the performing an action further comprises sending information via post, i.e. shipment, to the user (Col. 5, line 65-Col. 6, line 1).

[0038] The Examiner admits that Tomsen does not teach “sending information via post to the user”, as recited in this claim 47. The Examiner therefore relies on Kay, which teaches a system where a user can order a product associated with a channel and/or advertisement. In response to the order, their card will be charged and the product, which has already been paid for, will be shipped to the customer. (Kay, Col 5 Lin 65—Col 6 Lin 1).

[0039] In contrast, claim 47 recites “wherein the performing an action further comprises sending information via post to the user.” The information is associated with a “**request for information**” received from a client as recited in independent claim 42, upon which claim 47 depends. The “[sent] information” in claim 47 is different than the shipped product as specified in Kay. In Kay, the user has to evaluate, decide to buy, place the order and then pay for a product before the product is shipped to the customer via post. In short, Kay teaches that **a product** is shipped in response to **a paid order**. This is not “sending information via post to the user” in response to a request for information as recited in claim 47.

[0040] As shown above, the combination of Tomsen and Kay does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims

[0041] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0042] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

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Dated: January 4, 2007

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